

EXCISE BOARD VOTES LEVY ELECTION NULL

By 5 to 2 Vote Board Votes Action of City Commission Which Declared Measure Passed.

CITY PLANS NEW ATTEMPT

City Attorney Will Not Consider Action as Final; to Present New Petition Next Thursday.

By a vote of three to two, the Tulsa county excise board Thursday morning refused to declare the special city 2 mill excess levy voted in Tulsa August 12, legal; three of the members, L. W. North, Lewis Cline and Mrs. Minnie Hodges, voting against ratification of the recent mandate made by the city commissioners and presented by Charles Burks, city auditor. Votes in favor of declaring the election legal were cast by Thomas L. Minott and W. W. Buckley.

City Attorney E. P. Marshall presented the arguments in favor of holding the election legal based his conclusions on the holding of the Oklahoma supreme court in a case taken from the city of Collinsville, while a part of Rogers county, in which the court held that city ordinances under the city charters took precedence over state law in case the matters under controversy affected only the municipality. It had been contended by those not in favor of holding the election legal, that since only 655 votes were cast in the excess levy election August 12, this number of ballots was insufficient to validate the election because more than double that number of votes were cast in the water bond election July 10.

Att. Marshall argued that the state law provides that an election such as the excess levy balloting shall bring out at least one-half as many votes as the last preceding election, which he claimed was the school election the third Monday in May, recognized as a regular election by state law.

L. W. North, chairman of the excise board, stated that he and the remaining members of the board recognized the need of the 2-mill excess levy in the city of Tulsa for the maintenance of the city government, questioned whether it would not be better to allow the city commissioners to order mandamus proceedings in the court, that a court decision might be rendered on the matter. Marshall objected to this on the ground that mandamus proceedings cannot be brought before the court in time to fix the taxable valuations in Tulsa county by the state equalization board. North replied that the valuations would be received by the county excise board within a few weeks, and that in order to avoid the probability of the larger taxpayers paying taxes under protest and thereby tying up thousands of dollars in legal litigation, which might not come before the courts for a hearing in less time than a year, he was of the opinion that the mandamus action would bring the most speedy decision, since hearings on such action could be had immediately after the filing of the petition.

The excise board, while failing to validate the election, being undecided as to whether the state law referred to the law regular or last presented, or to regular or last presented by the city commissioners through the city attorney, that they would do all in their power to bring the matter before the court at the earliest possible moment for a decision upon which the levy can be based.

It was brought out by Marshall

and admitted by the board, that the city has the power, through the excise board, to make a levy of 10 mills as a maximum general levy, without the aid of an election. The city is asking only 6 mills as a general levy with the intent of requesting that on August 12, Marshall certified the board that in view of the Tulsa people and city valuation as reduced by the state equalization board, mandamus action would be immediately started for the purpose of validating the election.

The city attorney said late Thursday afternoon, however, that despite the ruling of the board he would not file a suit in the state court, but would immediately prepare a new petition to be presented at the meeting next Thursday. Marshall contends that since the cities charter under the state constitution allows a levy of 10 mills annually for revenue, the city is entitled to the additional 2 mills voted on and that the local charter would supersede the statutes as far as it purports to prevent a local one and of interest to the state at large.

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